

Justice for All

Summary of
Task Force Recommendations



Demographics

21% or 1.2M Arizona residents live below federal poverty line

Arizona
Constitution
Article 2,
Section 18

**There shall be no
imprisonment for debt,
except in cases of fraud.**

Core Values for Fair Courts

Release decisions/conditions should protect public safety & ensure appearance at proceedings.

People should not be jailed for failing to pay fines or court-assessed financial sanctions for reasons beyond their control.

Court practices should help people comply with court-imposed obligations.

Sanctions such as fees and fines should promote compliance with the law, economic opportunity, and family stability.

Two-Component Solution

A large orange circle with a slight gradient and a thin gold border, containing the text "Reasonable Sanctions".

Reasonable
Sanctions

A large yellow circle with a slight gradient and a thin gold border, containing the text "Pretrial Bail Reform".

Pretrial
Bail
Reform

Report Summary

The Task Force report:

Eleven Principles

Sixty-five Recommendations



There Should Be Consequences



Everyone should face consequences for violating the law.

BUT

Criminal fines & civil penalties should not promote a cycle of poverty by imposing excessive amounts or unduly restricting people's ability to be gainfully employed.

Small Ticket, Big Problem Later

For some, a small ticket can become a big problem. Pete the Pizza Guy is 23, earns slightly more than \$12,000/year and gets a ticket for a seat belt violation and no proof of financial responsibility (insurance).



- Seat Belt Violation \$ 139
- No Proof of Insurance \$ 1040

Because Pete doesn't have \$1,179, he doesn't go to court.

Pete is Stopped Again

Because Pete never showed up in court:

- Court notifies MVD & Pete's license is suspended
- With out-of-date address, doesn't get suspension notification
- Pete's charged with driving on a suspended license (a criminal charge)
- Pete's arrested for driving on a suspended license, car impounded (fees!), and Pete is hauled off to jail & has to pay booking fees.



If Only Pete Had Gone to Court

Pete could have:

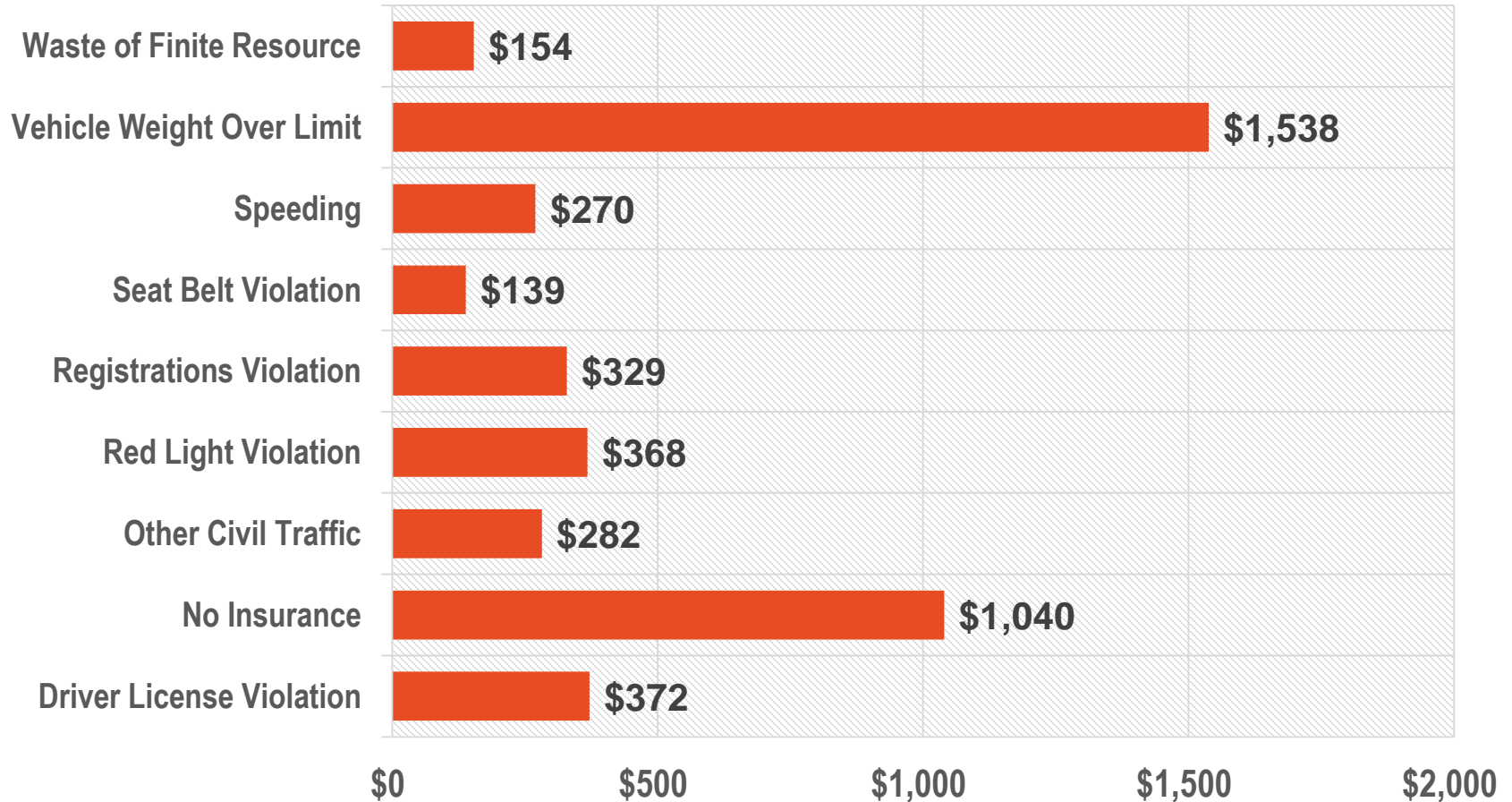
- Borrowed money, obtained insurance and shown intent to comply with law
- Might have gotten fine waived or community service
- Could have agreed to a time payment plan

Pete might still be delivering pizzas, but because his car was impounded & he was in jail, he lost his job.



Average Cost of Ticket

Average by Case Type



Principle One:

Judges Need Discretion to Set Reasonable Penalties

Judges should be allowed to mitigate the amount due based upon a person's inability to pay or financial hardship.

- **Request legislative changes to authorize judges to mitigate minimum fines, fees, surcharges, and penalties for those defendants for whom imposing a mandatory fine would cause undue economic hardship.**
- **Promote fairness by providing courts with automated tools to assist in determining a defendant's ability to pay.**
- **Use a person's participation in a means-tested assistance program as evidence of limited ability to pay.**

Recommendations

1, 2 & 4

Principle Two:

Provide Convenient Payment Options and Reasonable Time Payment Plans

Unrealistic time payment plans are a set-up for failure.

- Implement a program like Phoenix's Compliance Assistance Program statewide
- Conduct a pilot that blends the Compliance Assistance concept with a fine reduction program and driver's license reinstatement.
- Test techniques that make it easier for defendants to make payments, including the use of online or web-portal payment systems.



Recommendations

6, 7 & 8

Principle Three:

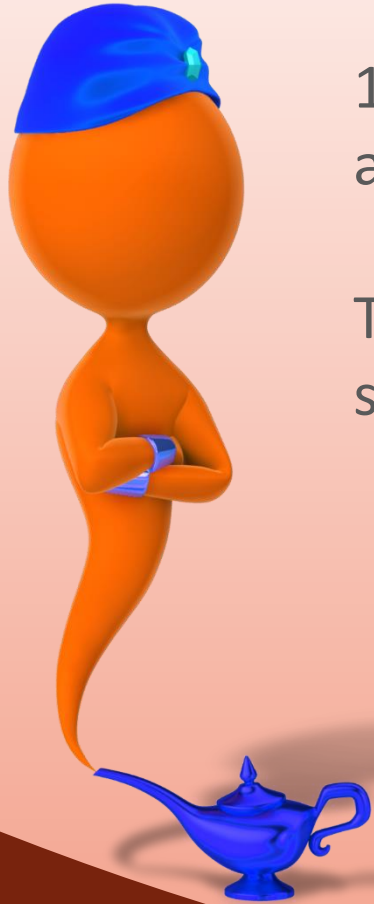
Provide Alternatives to Paying a Fine

ARS §13-824 became law in 2015 & enables a judge to convert a fine into community restitution (service) at \$10/hour. This does not currently allow for surcharges (often higher than base fine) to be converted. Statute also only applies to muni or justice court fines.

- **Allow judges additional discretion to sentence to community restitution or treatment programs. Court could convert fine into restitution hours.**
- **Revise community restitution statute to also apply to sentences imposed by Superior Courts.**

Principle Four:

Employ Practices that Promote Voluntary Appearance



11% or 103,000 people failed to appear in court or attend defensive driving school in FY2014.

This leads to more serious consequences such as suspension of driver's licenses or arrest warrants.

Civil Tickets Can Lead to Criminal Charges

103,000
Failures
to Appear

27% simple
speeding

53% later
cited for
driving on a
suspended
license

41% of
crim
offenses =
driving on
suspended

Remember Pete the Pizza Guy?

By going to court, the defendant preserves an opportunity to:

- Possibly have the ticket dismissed
- Mitigate the fine
- Ask to do community service if the fine is too great in proportion to income
- Enter into a time payment plan

Avoids: **Warrant for arrest** or **license suspension**.



Implement an Interactive Messaging System

Using email, text messaging, or phone messages to remind defendants of court dates, missed payments, and other actions like failures to appear can promote compliance with court orders.



Using a phone reminder system, courts in Arizona achieved up to a 24% reduction in failures to appear.



Recommendation

Principle Five:

Suspension of a Driver's License Should be a Last Resort

It is difficult to work or manage a family without driving. If a payment is missed or a civil penalty isn't paid, courts must issue a complaint and suspend the driver's license.

- Because license suspension can so greatly affect ones ability to maintain a family or remain employed, it should be a sanction of last resort.
- Request amendment of ARS § 28-3316 to make a first offense of driving on a suspended license a civil violation rather than a criminal offense.
- Authorize courts to impose driving restrictions as an alternative to license suspension

Principle Six:

Non-Jail Enforcement Alternatives Should be Available

Alternatives to jail such as restitution court and FARE provide non-jail, less costly compliance alternatives.

- **Before issuing a warrant, courts should use court-issued or FARE notices, or orders to show cause.**
- **Seek congressional action to allow federal income tax interception for victim restitution.**

Principle Seven:

Special Needs Offenders Should Be Addressed Appropriately

People suffering mental illness and/or drug addiction frequently wind up in court. These defendants present unique challenges.

- Bring together behavioral health and criminal justice stakeholders to adopt protocols for addressing people with mental health issues.
- Revise mental health competency statutes for processing misdemeanor cases.
- Consider using specialty courts or other community resources to address treatment and service needs of the defendant, as well as risk to the community.



Recommendations
34, 35 & 36

Part Two: Eliminate Money for Freedom

To the greatest extent possible, shift from money for freedom – bail and bonding – to risk-based release criteria.

High-risk individuals should not be set free because they have easy access to money or a friendly bail bondsman.

Low-risk individuals should not remain in jail because they don't.

Shifting from Money for Freedom to Risk-Based Criteria

Thousands of people are arrested and sit in jail awaiting trial simply because they cannot afford to post bail.

Defendants should not have to remain in custody solely because they are poor.

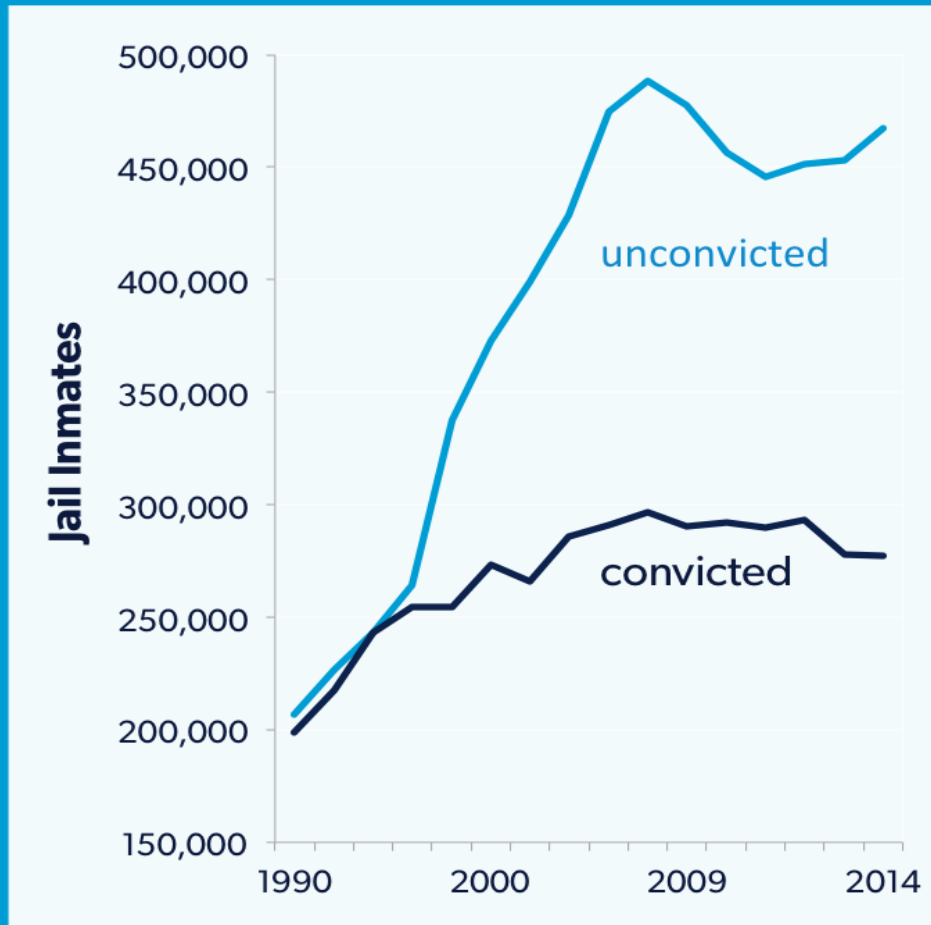


Risk-Based Detention



High-risk defendants should not be released if they are likely to commit new crimes or otherwise pose a risk to their community.

Unconvicted in Jail Doubled



The number of **unconvicted** people in jail has more than doubled since 1990.

What else has increased?

The use of cash bail.



#unconvicted
www.pretrial.org/EndCashBail

Does Pretrial Detention Matter?

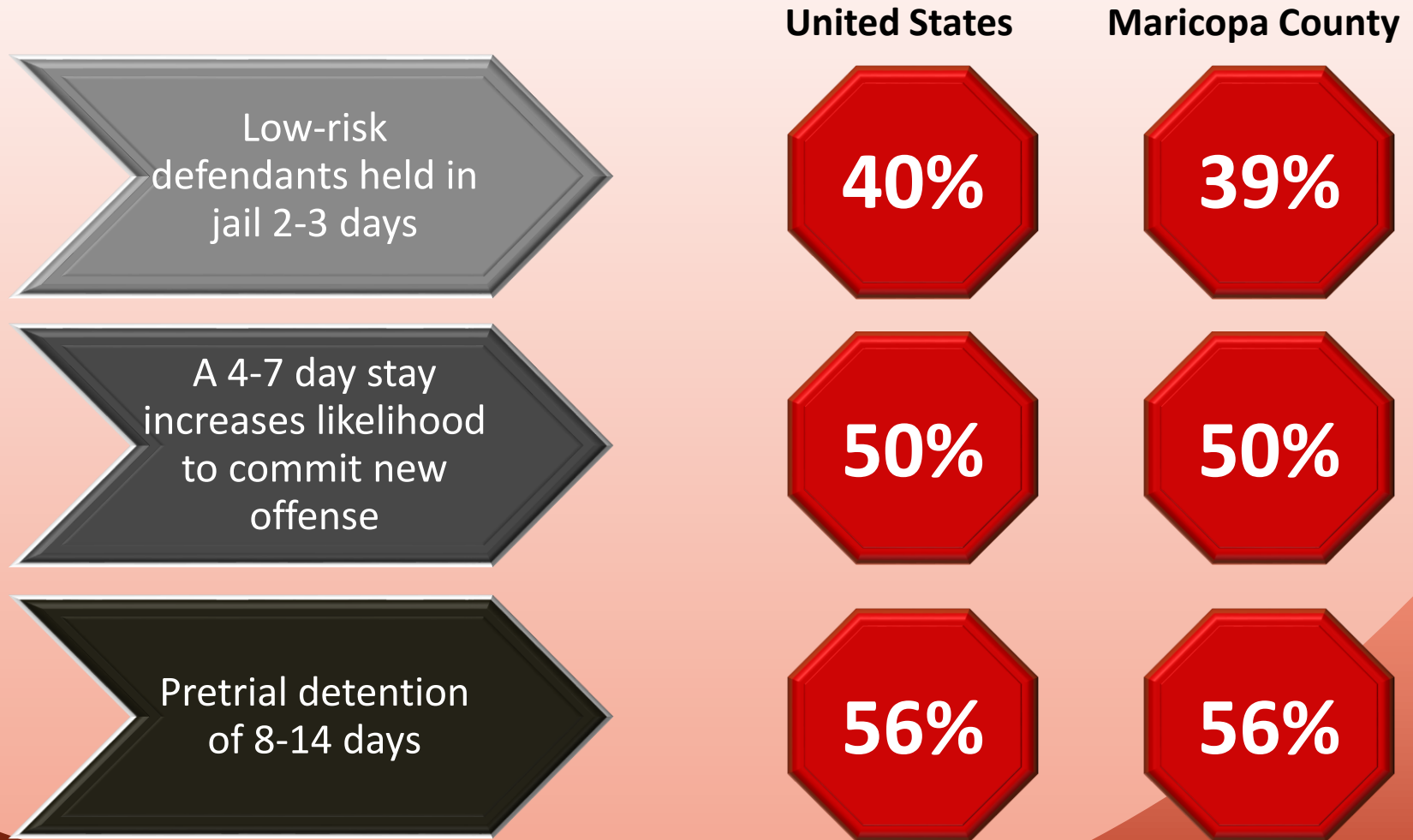


Even Short Periods of Pretrial Incarceration Cause Harm

Collateral damage from pretrial incarceration:

- Loss of employment
- Economic hardship from loss of income
- Interruption of education or training
- Inability to care for children or family
- Loss of place of residence
- Increased exposure to negative influences

Likelihood to Commit New Crimes Before Trial



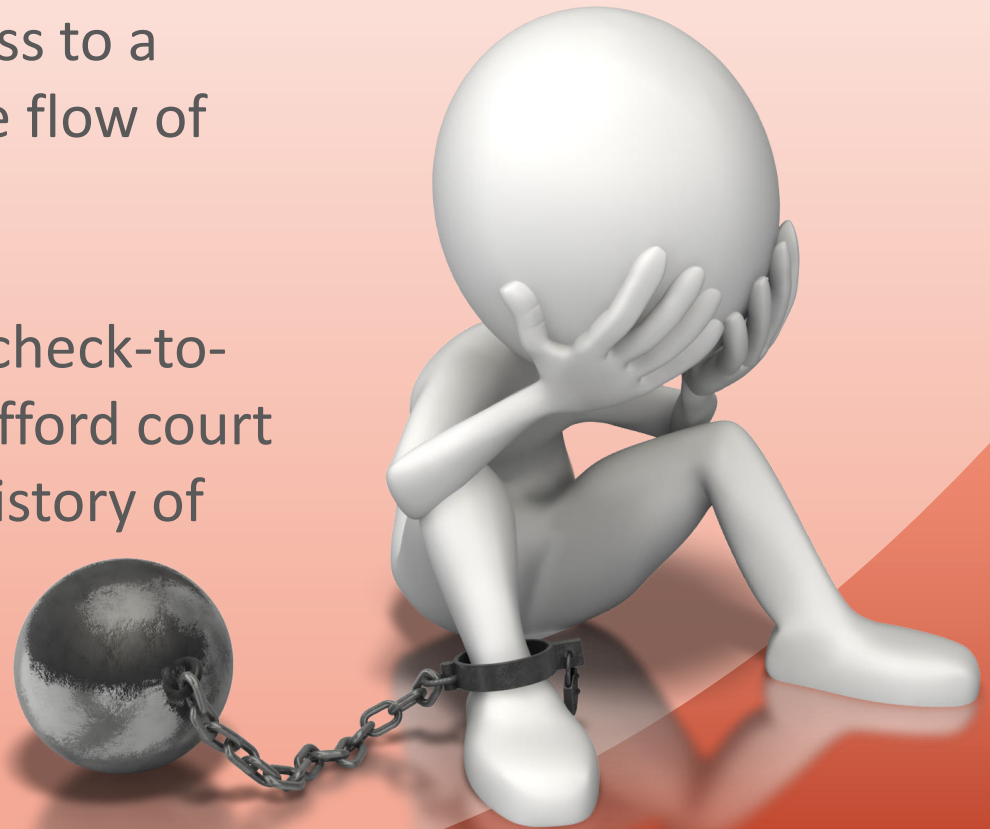
Source: http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF-Pretrial-CJ-Research-brief_FNL.pdf

Consider the Risk

Who poses the biggest risk?

Drug dealer with ready access to a network of 'friends' and free flow of money?

Low-wage worker living paycheck-to-paycheck who is unable to afford court fines/penalties but has no history of dangerous activity?



Principle Eight:

Detaining Low- and Moderate-Risk Defendants Increases Rates of Criminal Activity

Research shows that pretrial detention should be avoided to the extent possible.

Bond schedules based on charges are unconstitutional and need to be eliminated.

- **Eliminate the use of non-traffic criminal bond schedules.**
- **Require appointment of counsel if a person remains in jail after the initial appearance.**

Principle Nine:

Only Detain Individuals Who Present a High Risk

Defendants who should be detained are those who present a high risk to the community or an individual or repeatedly fail to appear.

- Amend the Constitution to expand the use of detention without the requirement for money bail.

Principle Ten:

Money Bond is Not Required to Secure Appearance of Defendants

Research shows that a large percentage of defendants released without cash bond do, in fact, return to court.

- Eliminate requirement for cash surety and instead pose reasonable conditions based on the individual's risk. When it must be used, preference should be for bond to be actual cash deposited with clerk of the court and returned to defendant if charges are not filed, the person is found innocent, or if no violations of the release conditions occur.

Principle Eleven:

Release Decisions Must Be Individualized and Based on Risk

Release decisions should be based on risk. The Public Safety Assessment (PSA) is used currently in all of Arizona's Superior Courts, but not in limited jurisdiction courts.

- **Expand the use of the PSA risk assessment tool to be used in the municipal and justice courts for use in felony and high-level or select misdemeanor cases.**
- **Eliminate the use of cash bond to secure a defendant's appearance.**

Working Toward an Ideal System

Fully implementing a risk-based system will require changes to the Arizona Constitution, modified court rules, and a cultural shift.

In the meantime, Arizona should implement a risk-based release system and eliminate money for freedom to the greatest extent possible.

Two-Component Solution

Reasonable
Sanctions



Pretrial
Bail
Reform



Justice
for All



Questions?

More Information?

<http://www.azcourts.gov/Justice-for-All>

Arizona Supreme Court

1501 West Washington Street

Phoenix, AZ 85007

Supplemental Materials



Innovations Underway Now

Phoenix Municipal Court – Compliance Assistance Program

For people with suspended licenses due to nonpayment of fines or fees. Possible to set up time payment plan, submit down payment and have driver's license reinstated.



In first four months, 5,200 people participated, resulting in \$2.3M in revenue from outstanding fines

Pima County Consolidated Justice Courts, Glendale & Mesa Municipal – Interactive Voice Response System

Notifies defendants of upcoming court dates, missed payments or the issuance of a warrant.



Up to 24% reduction in failures to appear

Innovations Underway Now

Maricopa County Superior Court, Glendale & Mesa Municipal Courts – **Mental Competency Proceedings Pilot**

Two municipal courts given authorization to conduct Rule 11 mental health competency proceedings on behalf of Superior Court.



Reduced processing time from 6 months to 60 days

Maricopa County Justice Court – **Video Appearance Center**

Uses video technology to reduce the need to transport prisoners to/from 26 justice courts across county.



First phase of this new program aims to reduce pre-trial confinement by 50%.

Innovations Underway Now

Pima County – MacArthur Safety & Justice Challenge

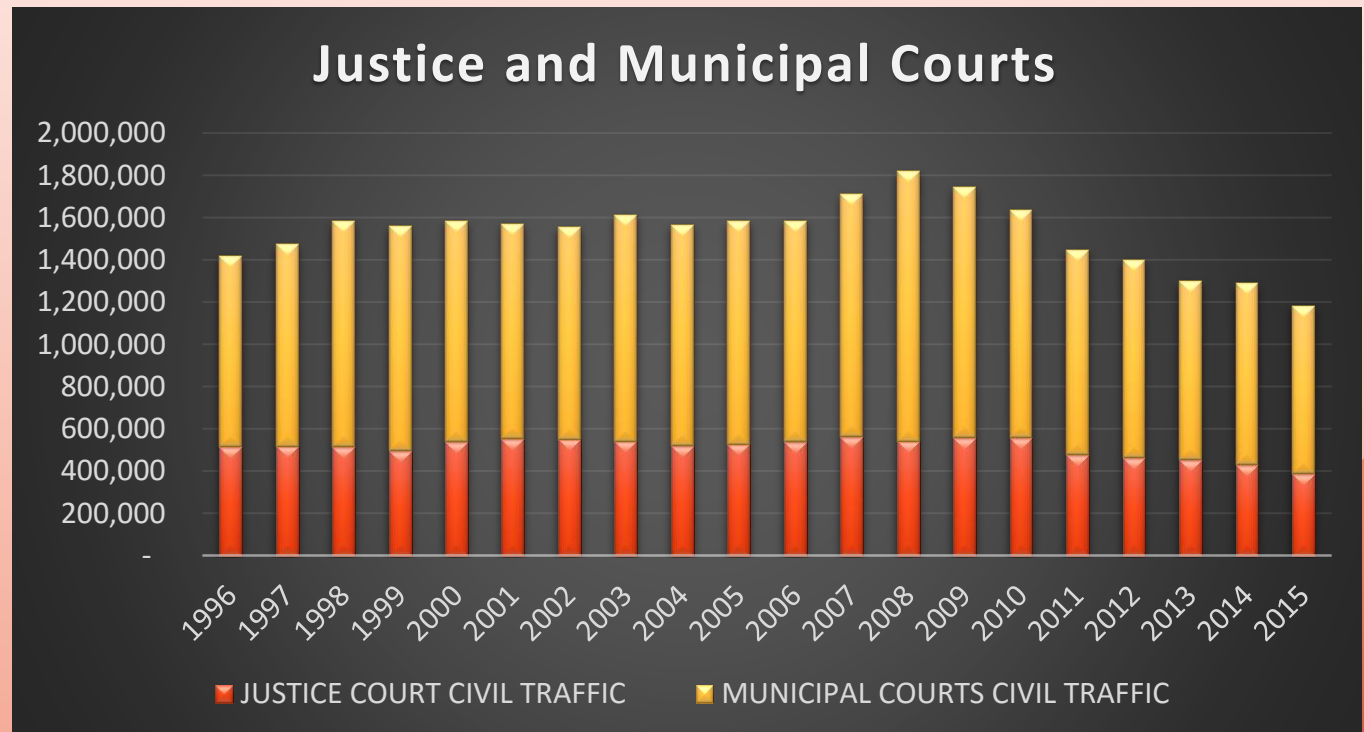
In May 2015, Pima County selected as one of 11 jurisdictions for first phase of an initiative to reduce over-incarceration by changing the way America uses jails. Pima County was later awarded an additional \$1.5 million to create a Phase 2 implementation plan for broad systemic change.



Results to follow.

Civil Traffic Filings in Limited Jurisdiction Courts

- Civil traffic is down 25.5% from 1.6m in FY2006 to 1.2m in FY2015.
- Filings peaked at 1.8m in FY2008



LIMITED JURISDICTION COURTS- CRIMINAL TRAFFIC

Total Criminal Traffic decreased 16.2% from FY 1996 to FY 2015. Filings peaked at 325,488 in 2007.

DUI

Up 13.3% from 1996 to 2015

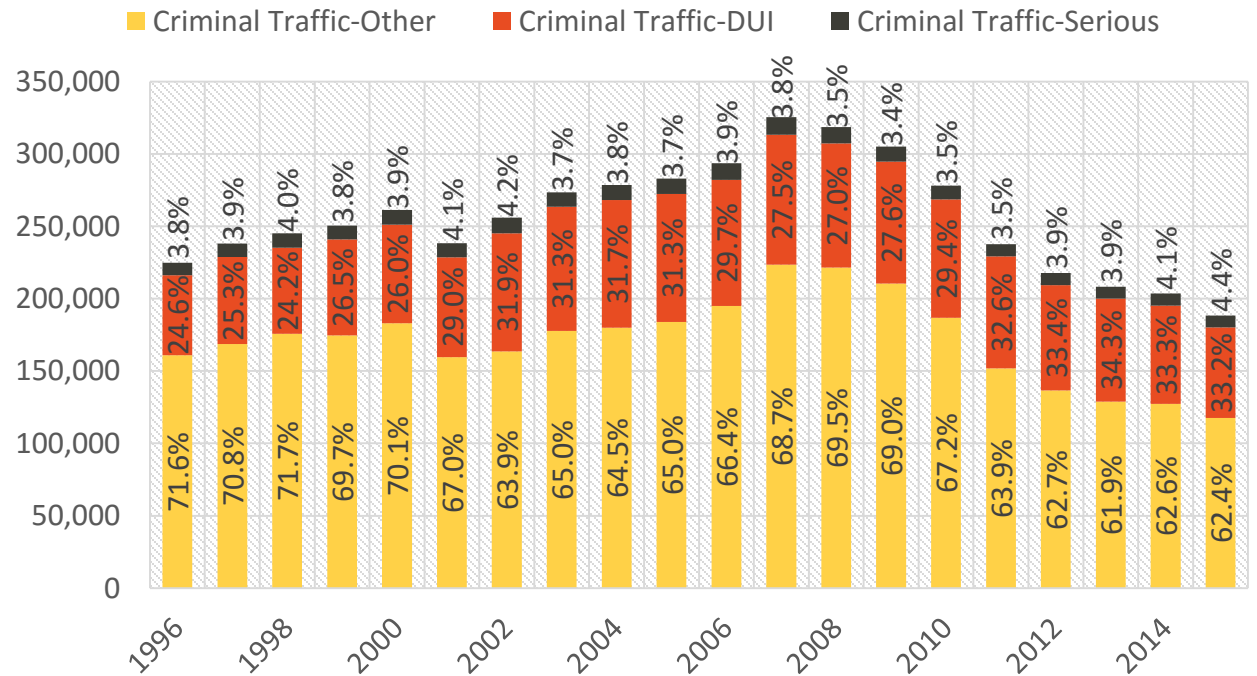
SERIOUS VIOLATIONS

Down 4.2% from 1996 to 2015

All Other Criminal Traffic

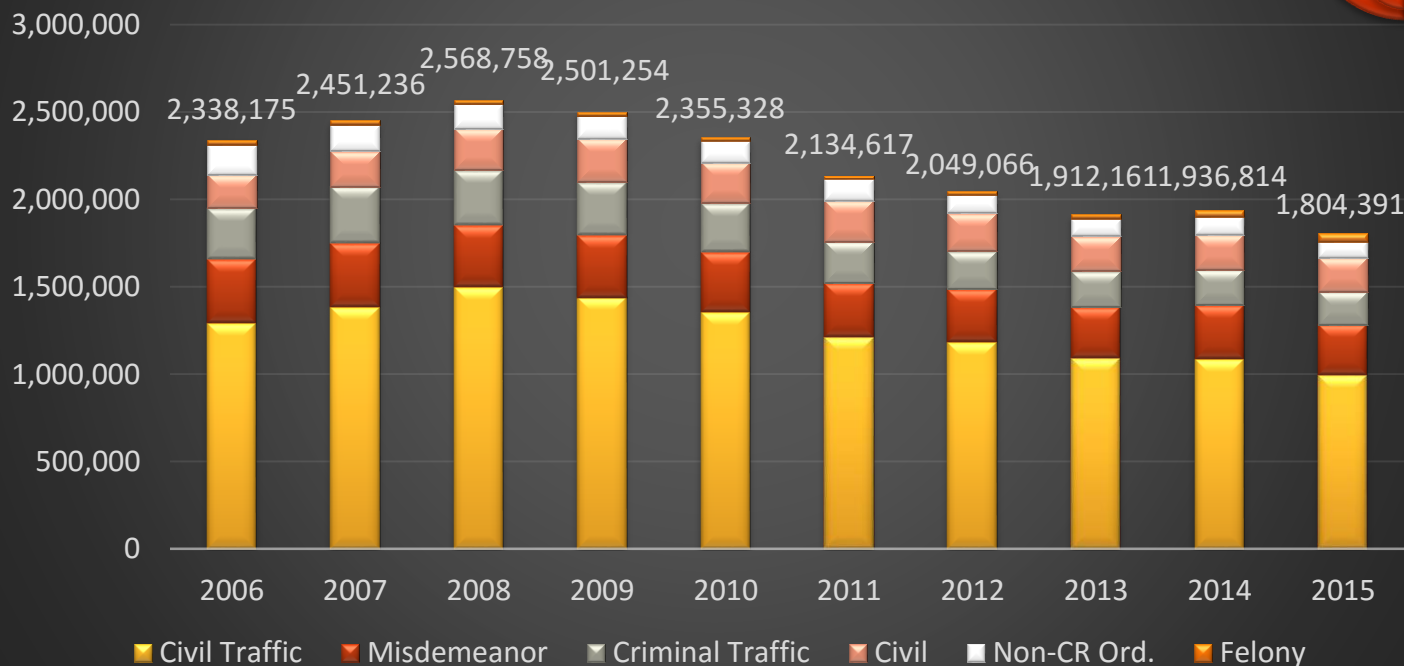
Down 27.0% from 1996 to 2015

JUSTICE OF THE PEACE AND MUNICIPAL COURTS CRIMINAL TRAFFIC FILINGS



Justice and Municipal Courts

Limited Jurisdiction Court Filings 10 Year Trend FY 2006 - FY 2015



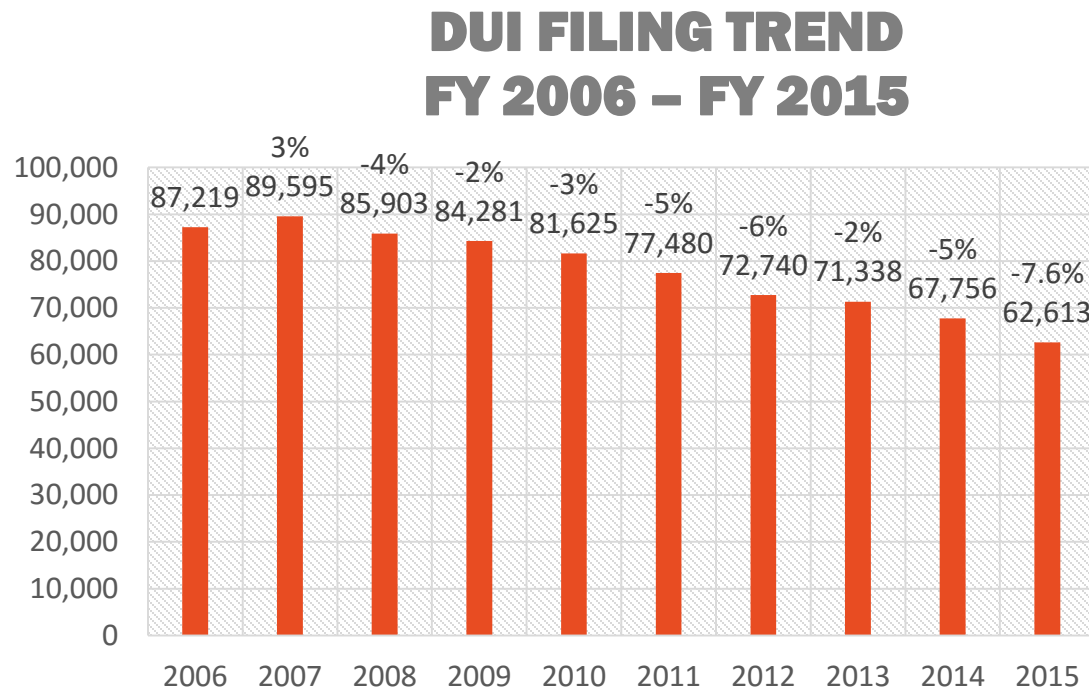
Percent Change

-22.8% • FY 06 / FY 15

-6.8% • FY 14 / FY 15

- ❖ Municipal Courts make up 61% of the total caseload while Justice Courts account for 39%.
- ❖ Criminal and Civil Traffic account for 65% of the total filings in FY15

Justice and Municipal Courts Criminal DUI Filings



-28%

FY06 – FY 15

-8%

FY14 – FY15

- ❖ DUI filings have decreased every fiscal year since FY07.
- ❖ Time Payment funds are impacted by DUI Filings.

According to sample data, 72% of DUI defendants are on time payment plans.

Small Ticket, Big Problem Later

For some, a small ticket can become a big problem. Let's look at an example of a typical speeding ticket.

